



# Senate

General Assembly

February Session, 2006

**File No. 96**

Senate Bill No. 44

*Senate, March 23, 2006*

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING REGISTRATION OF HOMEMAKER-COMPANION AGENCIES WITH THE DEPARTMENT OF CONSUMER PROTECTION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (*Effective July 1, 2006*) As used in sections 1 to 11,  
2      inclusive, of this act:

3      (1) "Certificate" means a certificate of registration issued under  
4      section 3 of this act.

5      (2) "Commissioner" means the Commissioner of Consumer  
6      Protection or any person designated by the commissioner to  
7      administer and enforce the provisions of sections 1 to 11, inclusive, of  
8      this act.

9      (3) "Companion services" means nonmedical, basic supervision  
10     services to ensure the well-being and safety of a person in such  
11     person's home.

12 (4) "Employee" means any person employed by, or who enters into a  
13 contract to perform services for, a homemaker-companion agency,  
14 including, but not limited to, temporary employees, pool employees  
15 and independent contractors.

16 (5) "Homemaker services" means nonmedical, supportive services  
17 that ensure a safe and healthy environment for a person in such  
18 person's home, such services to include assistance with personal  
19 hygiene, cooking, household cleaning, laundry and other household  
20 chores.

21 (6) "Homemaker-companion agency" means any public or private  
22 organization, employing one or more persons that is engaged in the  
23 business of providing companion services or homemaker services.  
24 Homemaker-companion agency shall not include a home health care  
25 agency, as defined in subsection (d) of section 19a-490 of the general  
26 statutes, or a homemaker-home health aide agency, as defined in  
27 subsection (e) of section 19a-490 of the general statutes.

28 (7) "Service plan" means a written document provided by a  
29 homemaker-companion agency to a person utilizing services provided  
30 by such agency, that specifies the scope, type, frequency and duration  
31 of homemaker or companion services that are to be provided by such  
32 agency for the benefit of the person.

33 Sec. 2. (NEW) (*Effective July 1, 2006*) No person acting individually  
34 or jointly with any other person shall establish, conduct, operate or  
35 maintain a homemaker-companion agency in this state without first  
36 obtaining a certificate of registration from the Commissioner of  
37 Consumer Protection pursuant to section 3 of this act.

38 Sec. 3. (NEW) (*Effective July 1, 2006*) (a) Any person seeking a  
39 certificate of registration as a homemaker-companion agency shall  
40 apply to the Commissioner of Consumer Protection, in writing, on a  
41 form provided by the commissioner. The application shall include the  
42 applicant's name, residence address, business address, business  
43 telephone number and such other information as the commissioner

44 may require. An applicant shall also be required to certify under oath  
45 to the commissioner that: (1) Such agency complies with the  
46 requirements of section 9 of this act concerning employee state  
47 criminal history records checks, (2) such agency provides all persons  
48 receiving homemaker or companion services with a written  
49 individualized contract or service plan that specifically identifies the  
50 scope, type, frequency and duration of homemaker or companion  
51 services provided by the agency to the person, and (3) that all records  
52 maintained by such agency shall be open, at all reasonable hours, for  
53 inspection, copying or audit by the commissioner.

54 (b) Each application for a certificate of registration as a homemaker-  
55 companion agency shall be accompanied by a fee of three hundred  
56 dollars.

57 (c) Upon the failure by a homemaker-companion agency to comply  
58 with the registration provisions of this section, the Attorney General, at  
59 the request of the Commissioner of Consumer Protection, is authorized  
60 to apply in the name of the state of Connecticut to the Superior Court  
61 for an order temporarily or permanently restraining and enjoining a  
62 homemaker-companion agency from continuing to do business in the  
63 state.

64 Sec. 4. (NEW) (*Effective July 1, 2006*) Upon receipt of a completed  
65 application and fee, the Commissioner of Consumer Protection shall  
66 issue and deliver to the applicant a certificate to engage in the business  
67 for which the application was made; or refuse to issue the certificate.  
68 The commissioner may suspend, revoke or refuse to issue or renew  
69 any certificate issued under sections 1 to 11, inclusive, of this act or  
70 may place a registrant on probation or issue a letter of reprimand. No  
71 application for the reinstatement of a certificate which has been  
72 revoked shall be accepted by the commissioner within one year after  
73 the date of such revocation.

74 Sec. 5. (NEW) (*Effective July 1, 2006*) (a) Upon refusal to issue or  
75 renew a certificate, the Commissioner of Consumer Protection shall  
76 notify the applicant of the denial and of the applicant's right to request

77 a hearing not later than ten days after the date of receipt of the notice  
78 of denial.

79 (b) If the applicant requests a hearing within such ten days, the  
80 commissioner shall give notice of the grounds for the commissioner's  
81 refusal and shall conduct a hearing concerning such refusal in  
82 accordance with the provisions of chapter 54 of the general statutes  
83 concerning contested cases.

84 (c) If the commissioner's denial of a certificate is sustained after such  
85 hearing, an applicant may make new application not less than one year  
86 after the date on which such denial was sustained.

87 Sec. 6. (NEW) (*Effective July 1, 2006*) (a) The Commissioner of  
88 Consumer Protection, at all reasonable hours, may inspect, copy or  
89 audit all records maintained by such agency. The commissioner may  
90 conduct investigations and hold hearings on any matter under the  
91 provisions of sections 1 to 11, inclusive, of this act. The commissioner  
92 may issue subpoenas, administer oaths, compel testimony and order  
93 the production of books, records and documents. If any person refuses  
94 to appear, to testify or to produce any book, record, paper or document  
95 when so ordered, upon application of the commissioner, a judge of the  
96 Superior Court may make such order as may be appropriate to aid in  
97 the enforcement of this section.

98 (b) The Attorney General, at the request of the commissioner, is  
99 authorized to apply in the name of the state of Connecticut to the  
100 Superior Court for an order temporarily or permanently restraining  
101 and enjoining any person from violating any provision of sections 1 to  
102 11, inclusive, of this act.

103 Sec. 7. (NEW) (*Effective July 1, 2006*) (a) The Commissioner of  
104 Consumer Protection may revoke, suspend or refuse to issue or renew  
105 any certificate of registration as a homemaker-companion agency or  
106 place an agency on probation or issue a letter of reprimand for: (1)  
107 Conduct by the agency, or by an employee of the agency while in the  
108 course of employment, of a character likely to mislead, deceive or

109 defraud the public or the commissioner; or (2) engaging in any  
110 untruthful or misleading advertising.

111 (b) The commissioner shall not revoke or suspend any certificate of  
112 registration except upon notice and hearing in accordance with chapter  
113 54 of the general statutes.

114 Sec. 8. (NEW) (*Effective July 1, 2006*) (a) Each person obtaining a  
115 homemaker-companion agency certificate of registration shall: (1)  
116 Exhibit the agency's certificate of registration upon request by any  
117 interested party, (2) state in any advertisement the fact that the agency  
118 is registered, and (3) include the agency's registration number in any  
119 advertisement.

120 (b) No person shall: (1) Present or attempt to present, as such  
121 person's own, the certificate of another, (2) knowingly give false  
122 evidence of a material nature to the Commissioner of Consumer  
123 Protection for the purpose of procuring a certificate, (3) represent  
124 himself or herself falsely as, or impersonate, a registered homemaker-  
125 companion agency, (4) use or attempt to use a certificate which has  
126 expired or which has been suspended or revoked, (5) offer to provide  
127 homemaker or companion services without having a current certificate  
128 of registration under the provisions of sections 1 to 11, inclusive, of this  
129 act, or (6) represent in any manner that such person's registration  
130 constitutes an endorsement by the commissioner of the quality of  
131 services provided by such person.

132 (c) In addition to any other remedy provided for in sections 3 to 7,  
133 inclusive, of this act, any person who violates any provision of  
134 subsection (b) of this section, shall be fined not more than one  
135 thousand dollars or imprisoned not more than six months, or both.

136 (d) Certificates issued to a homemaker-companion agency shall not  
137 be transferable or assignable.

138 (e) All certificates issued under the provisions of sections 1 to 11,  
139 inclusive, of this act shall expire annually. The fee for renewal of a

140 certificate shall be the same as the fee charged for an original  
141 application pursuant to section 3 of this act. Fees collected pursuant to  
142 the issuance of a certificate or renewal of a certificate shall be deposited  
143 in the General Fund.

144 (f) Failure to receive a notice of expiration of registration or a  
145 renewal application shall not exempt a homemaker-companion agency  
146 from the obligation to renew.

147 Sec. 9. (NEW) (*Effective July 1, 2006*) (a) Any homemaker-companion  
148 agency shall require that any current or prospective employee of such  
149 agency submit to a state criminal history records check. The criminal  
150 history records check required by this section shall be conducted in  
151 accordance with section 29-17a of the 2006 supplement to the general  
152 statutes and the costs incurred for such check shall be paid by the  
153 homemaker-companion agency.

154 (b) If a homemaker-companion agency receives notice of a state  
155 criminal history records check concerning a current or prospective  
156 employee, the agency shall make its determination concerning the  
157 employment status of such person based on: (1) The level and  
158 seriousness of the crime; (2) when the crime was committed; (3) the age  
159 of the current or prospective employee at the time the crime was  
160 committed; (4) the circumstances surrounding the crime; (5) the  
161 relationship between the crime and the current or prospective  
162 employee's duties as a direct care provider; and (6) the current or  
163 prospective employee's criminal and corrections record since the  
164 crime.

165 Sec. 10. (NEW) (*Effective July 1, 2006*) A homemaker-companion  
166 agency shall not provide homemaker services or companion services to  
167 any person, unless prior to providing any such services, the agency  
168 provided the person who is to receive the services with a written  
169 contract or service plan that prescribed the scope, type, frequency,  
170 duration and cost of the services to be provided by the agency, and  
171 such contract or service plan was accepted and signed by the person  
172 who is to receive the services. In addition, any contract or service plan

173 provided by a homemaker-companion agency to a person receiving  
 174 services shall also provide notice (1) of the person's right to request  
 175 changes to, or review of the contract or service plan, (2) that all the  
 176 employees of such agency have submitted to a state criminal history  
 177 records check, and (3) that such agency's records are available for  
 178 inspection or audit by the Department of Consumer Protection.

179 Sec. 11. (NEW) (*Effective July 1, 2006*) The Commissioner of  
 180 Consumer Protection shall adopt regulations, in accordance with  
 181 chapter 54 of the general statutes, for purposes of sections 1 to 11,  
 182 inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	New section
Sec. 2	<i>July 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2006</i>	New section
Sec. 5	<i>July 1, 2006</i>	New section
Sec. 6	<i>July 1, 2006</i>	New section
Sec. 7	<i>July 1, 2006</i>	New section
Sec. 8	<i>July 1, 2006</i>	New section
Sec. 9	<i>July 1, 2006</i>	New section
Sec. 10	<i>July 1, 2006</i>	New section
Sec. 11	<i>July 1, 2006</i>	New section

**AGE**      *Joint Favorable C/R*

GL

**GL**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Consumer Protection, Dept.; Public Safety, Dept.	GF - Revenue Gain	Less than 50,000	Less than 50,000
Consumer Protection, Dept.	GF - Cost	191,230	182,596
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	44,918	60,830
Judicial Dept.; Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill requires that homemaker-companion agencies register with the Department of Consumer Protection (DCP). Under the bill, a \$300 application fee will be required for registration and a \$300 registration renewal fee will be assessed annually. Assuming approximately 150 homemaker-companion agencies register with DCP under the bill, the receipt of new license application fees would result in a revenue gain of \$45,000 to the General Fund.

Under the bill, a homemaker-companion agency is required to have a state criminal history records check conducted by the Department of Public Safety of its current and prospective employees. This background check currently costs \$25, which would result in a revenue gain to the state.

Additionally, the bill allows the DCP Commissioner to refuse to issue or renew a certificate as long as he/she notifies the applicant of such denial and the right to request a hearing. The bill also establishes procedures under which an applicant can request a hearing in regards to the denial of certification. Furthermore, the bill also gives the DCP Commissioner the right to inspect, copy, or audit all of the



homemaker-companion agency's records at all reasonable hours. The bill states that application fees received for licensing homemaker-companion agencies must be deposited into the General Fund. DCP would need to hire one additional Administrative Hearings Attorney (annual salary of \$66,451), a Special Investigator (annual salary of \$55,103), and a Licensing Specialist (annual salary \$49,236) to handle the additional administrative hearings, investigations, and registration applications as a result of the bill. The fringe benefit costs for these three positions would be paid out of the Comptroller's Miscellaneous Accounts.<sup>1</sup> The department would also incur costs in Other Expenses for office supplies, software and training. In FY 07, there would also be a one-time cost of \$6,500 for computer hardware. The Governor's Recommended Budget includes \$191,230 in DCP for these purposes. All of these costs are detailed below.

Description	FY 07	FY 08
Personal Services	\$170,790	\$170,790
Other Expenses	13,940	11,806
Equipment	6,500	0
<b>Total</b>	<b>\$191,230</b>	<b>\$182,596</b>

The bill also makes it a crime for any person to provide companion or homemaker services without being registered, or to make certain misrepresentations (such as impersonating or representing himself or herself falsely as a registered homemaker-companion agency). Any person who violates any one of the specific provisions listed in the bill is subject to a fine of up to \$1,000, up to six months in prison, or both.

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<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

It is anticipated that few offenses would be prosecuted each year and consequently any revenue gain from criminal fines under the bill would be minimal. To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community.

On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The Office of the Attorney General (OAG) is authorized under the bill, at the request of the Commissioner of the Department of Consumer Protection, to apply to the Superior Court for a temporary or permanent order restraining and enjoining anyone from violating any of the bill's provisions. The OAG could accommodate this duty without requiring additional resources.

### ***The Out Years***

The revenues associated with the bill would continue throughout the out years, while the costs in the bill would continue into the future subject to inflation.

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**OLR Bill Analysis**  
**SB 44**

***AN ACT CONCERNING REGISTRATION OF HOMEMAKER-COMPANION AGENCIES WITH THE DEPARTMENT OF CONSUMER PROTECTION.***

**SUMMARY:**

This bill requires homemaker-companion agencies to register annually with the Department of Consumer Protection (DCP). It specifies application procedures and gives the DCP commissioner authority to suspend, revoke, or deny the certificate of registration or take other disciplinary measures in response to violations of the bill. It sets the registration fee at \$300.

Under the bill, the agencies must require their current and prospective employees to undergo state criminal history record checks and take specified factors into account when making employment decisions based on the checks. They must provide their clients with written individualized contracts or service plans that identify the services' scope, type, frequency, and duration. They must also make their records accessible to DCP. The bill imposes penalties on agencies that provide such services without registering or make certain misrepresentations.

The bill requires the commissioner to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2006

**HOMEMAKER-COMPANION AGENCIES**

The bill defines a "homemaker-companion agency" as any public or private organization with one or more employees that is engaged in the business of providing companion or homemaker services. The

term excludes a home health care agency or a homemaker-home health aide agency, both of which must already be licensed by the Department of Public Health (DPH) and consequently are exempt from the bill's DCP registration requirement (see BACKGROUND).

Under the bill, "companion services" mean nonmedical, basic supervision services to ensure a person's well-being and safety in his home. "Homemaker services" mean nonmedical, supportive services that ensure a safe and healthy environment for an individual in his home, including assistance with personal hygiene, cooking, household cleaning, laundry, and other household chores.

The bill defines "employee" as anyone employed by, or who enters into a contract to perform series for, a homemaker-companion agency, including temporary employees, pool employees, and independent contractors.

## **REGISTRATION PROCEDURES**

The bill prohibits anyone acting individually or jointly with another person from establishing, conducting, operating, or maintaining a homemaker-companion agency in the state without first obtaining a DCP registration certificate. To obtain the certificate, an applicant must apply to the DCP commissioner in writing, on a form the commissioner provides. The application must include the applicant's name, residence and business addresses, business telephone number, and other information the commissioner requires.

The applicant must also certify under oath that the agency:

1. complies with the bill's requirements on state criminal history record checks;
2. provides all individuals receiving homemaker or companion services with a written individualized contract or service plan (see below) that specifically identifies the services' scope, type, frequency, and duration; and

3. will keep the records it maintains open for inspection, copying, or audit by DCP at all reasonable hours.

Each application must be accompanied by a fee of \$300.

The bill defines “service plan” as a written document provided by a homemaker-companion agency to a client specifying the scope, type, frequency, and duration of homemaker or companion services that are to be provided by the agency to the client. The Connecticut Home Care Program for Elders currently requires such a written service plan for its clients who receive Medicaid or state assistance.

If an agency fails to comply with the bill’s registration requirements, the bill authorizes the attorney general, at the DCP commissioner’s request, to apply to the Superior Court for a temporary or permanent order to stop the agency from continuing to do business in the state.

After receiving a completed application and the \$300 fee, the commissioner must either issue and deliver the certificate of registration or deny it. The bill allows the commissioner to suspend, revoke, or refuse to issue or renew such a certificate; place a registrant on probation; or issue a letter of reprimand. It prohibits the commissioner from accepting an application to reinstate a revoked certificate within one year after the revocation date. If the commissioner refuses to issue or renew a certificate, he must notify the applicant of the denial and of the applicant’s right to request a hearing within 10 days after receiving the denial notice. If the applicant requests such a hearing within the 10 days, the commissioner must give notice of the grounds for his refusal and conduct the hearing in accordance with the Uniform Administrative Procedure Act (UAPA). If the denial is sustained after the hearing, the applicant must wait one year after the date the denial was sustained before he can reapply.

## **FEES AND RENEWALS**

Registration certificates cannot be transferred or assigned to someone else. They expire annually and are renewable for a \$300 fee, which is the same as the fee for the original certificate. The fees

collected must be deposited in the General Fund and credited to DCP for personal services. Failure to receive an expiration notice or a renewal application does not exempt an agency from the obligation to renew the registration

### **COMMISSIONER'S INSPECTION AUTHORITY**

The bill gives the DCP commissioner the right to inspect, copy, or audit all of the agency's records at all reasonable hours. It allows the commissioner to conduct investigations and hold hearings on any matter under this bill and to issue subpoenas, administer oaths, compel testimony, and order the agency to produce books, records, and documents. If anyone refuses to appear or otherwise comply with the commissioner's orders, a Superior Court judge, on the commissioner's application, may make an order appropriate to aid in enforcing the bill. The attorney general, at the commissioner's request, authority may apply to the Superior Court for a temporary or permanent order restraining and enjoining anyone from violating the bill.

### **GROUND FOR REGISTRATION REVOCATION, SUSPENSION, OR DENIAL**

The bill allows the commissioner to (1) revoke, suspend, or refuse to issue or renew a certificate of registration; (2) place an agency on probation; or (3) issue a letter of reprimand. He can take any of these actions for (1) agency conduct (or that of an agency employee in the course of employment) likely to mislead, deceive, or defraud the public or the commissioner or (2) untruthful or misleading advertising. It prohibits the commissioner from revoking or suspending a certificate of registration except on notice and hearing consistent with UAPA.

### **REGISTRANT'S DUTIES**

The bill requires anyone obtaining a certificate of registration to (1) show it at the request of any interested party and (2) state the fact that the agency is registered and disclose its registration number in advertising.

The bill also prohibits anyone from:

1. presenting or trying to present someone else's certificate as his own;
2. knowingly giving the commissioner false evidence of a material nature in order to procure a certificate;
3. representing himself or herself falsely as, or impersonating, a registered homemaker-companion agency;
4. using or trying to use an expired, suspended, or revoked certificate;
5. offering to provide homemaker or companion services without having a current certificate of registration; or
6. representing in any way that registration constitutes the commissioner's endorsement of the quality of services the person provides.

In addition to other remedies elsewhere in the bill, anyone who violates these specific provisions is subject to a penalty of up to six months in prison, up to a \$1,000 fine, or both.

#### **EMPLOYEE CRIMINAL HISTORY RECORDS CHECKS**

Under the bill, a homemaker-companion agency must require its current and prospective employees (including temporary and pool employees and independent contractors) to submit to a state criminal history records check, which must be conducted consistent with current statutory procedures. The agency must pay the costs incurred for the state checks (currently \$25 per check). If the agency receives notice of a check on a current or prospective employee, it must decide on the person's employment status based on:

1. the level and seriousness of the crime,
2. when the crime was committed,

3. the person's age at the time of the crime,
4. the circumstances surrounding the crime,
5. the relationship between the crime and the person's duties as a direct care provider, and
6. the person's criminal and corrections record since the crime.

### **INDIVIDUALIZED CONTRACT OR SERVICE PLAN REQUIRED**

Under the bill, before providing homemaker or companion services to anyone, a homemaker-companion agency must first give the prospective client a written contract or service plan that prescribes the services' scope, type, frequency, duration, and cost. Services cannot begin until the client accepts and signs the contract or service plan. The bill also requires the contract or service plan to provide notice (1) of the individual's right to request changes to it or to review it, (2) that all the agency's employees have submitted to a state criminal history records check, and (3) that the agency's records are available for DCP inspection or audit.

### **BACKGROUND**

#### ***DPH-Licensed Home Health Care Agencies and Homemaker-Home Health Aide Agencies Defined***

Homemaker-companion agencies provide a different mix of services than DPH-licensed home health care agencies and homemaker-home health aide agencies, which are defined under the public health statutes. A home health care agency is a public or private organization that provides professional nursing services as well as homemaker-home health aide services, physical therapy, speech therapy, occupational therapy, or medical social services available 24 hours a day, in the patient's home or an equivalent environment.

A homemaker-home health aide agency is a public or private organization, other than a home health care agency, that provides supportive services such as assistance with personal hygiene, dressing, feeding, and incidental household tasks essential to achieving



adequate household and family management in the patient's home or in an equivalent environment. These supportive services must be provided under the supervision of a registered nurse. Homemaker-home health aide services do not include such services provided to assist individuals with activities of daily living for people who have a disease or condition that is chronic and stable as determined by a physician (*e.g.*, in an assisted living facility, where services can be provided only by a DPH-licensed assisted living services agency).

**COMMITTEE ACTION**

Select Committee on Aging

Joint Favorable Change of Reference

Yea 12 Nay 0 (03/07/2006)

General Law Committee

Joint Favorable

Yea 14 Nay 1 (03/09/2006)